

Minutes of the Kansas Sentencing Commission Meeting May 19, 2004

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on May 19, 2004, at 1:35 p.m. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, KS.

Attendance

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, District Attorney, Vice Chairman; Honorable Eric Rosen; Honorable Christel Marquardt; Senator Greta Goodwin; Senator John Vratil; Representative Janice Pauls; Representative Jeff Goering; Roger Werholtz, Secretary of Corrections; Marilyn Scafe, Kansas Parole Board; Chris Mechler, Office of Judicial Administration; Rick Kittel, Board of Indigents' Defense Services; Kathleen Lynch, Private Defense Attorney; Dr. Donald Jackson, Public Member; Jaime Richardson, Public Member. Staff: Patricia Biggs, Executive Director; Julia Butler, Staff Attorney; Kunlun Chang, Research Director; Lora Moison, Research Analyst; Janice Brasher, Grant Administrator; Brenda Harmon, Administrative Assistant; Marty Schmiedeler, Accountant.

Welcome New Member

Chairman Johnson introduced and welcomed the Honorable Christel Marquardt as a new member of the Kansas Sentencing Commission. She was appointed as the designee of the Chief Justice to replace the Honorable Robert Lewis, who died May 3, 2004. Judge Lewis had been a member of the Kansas Sentencing Commission since 1993. Judge Marquardt is with the Kansas Court of Appeals.

Approval of the Minutes

The Chairman referred to the minutes of the February 13, 2004, Kansas Sentencing Commission meeting and asked for a motion to approve. A motion was made by Ms. Kathleen Lynch, and seconded by Mr. Roger Werholtz, to approve the minutes of the February 13, 2004, Kansas Sentencing Commission meeting. The motion carried.

Postponement of April 23rd Meeting

Chairman Johnson had postponed the Kansas Sentencing Commission meeting scheduled for April 23, 2004, due to not having enough members scheduled to attend for a quorum. The packet of information that would have been discussed at the April meeting was mailed to members. Packet information discussed follows:

SB 123 Funding Decrease

Ms. Patricia Biggs provided an update on the SB 123 funding decrease. There is a 1.5 million dollar reduction this year. This is consistent with what has been seen to date as actual expenditures. In terms of the SB 123 process, it is taking a little bit longer for

offenders to get into full-blown treatment than what was anticipated. This is where the extra 1.5 million dollars is coming from. The average cost of offender is showing a dramatic increase, as more and more offenders are moving into the full-blown treatment cycle rather than just the assessments. Offender reimbursements are being worked on.

Proportionality Study – discussion with VERA

Ms. Biggs is working with the purchasing department on a sole source contract with the VERA Institute for the analysis of guidelines proportionality study. Once purchasing approves the sole source contract, the funds can be encumbered and the actual study can move forward. VERA submitted a general short proposal, which was included in the April 23 meeting packet. Background material has been sent to VERA, which they are reviewing to prepare for the study. The target date for completion of this report is August 1, 2004.

The Chairman discussed SB 45, which is the global approach for a comprehensive review of all criminal law statutes. The VERA results will dovetail nicely with what the Legislature has decided to do in way of SB 45. The VERA study can be used as input into the SB 45 committee's work.

2004 Legislative Update

Ms. Julia Butler gave an overview of legislation enacted as of May 14, 2004. A complete listing of all Bills in Committee, and their current status, was provided to commission members.

Ms. Butler and Ms. Biggs spoke at the recent Court Service Officer Conference, where there were a lot of questions relating to offenders that originally had a possession with intent to sell or manufacturing charge that was reduced and because of the reduction, they were sentenced under SB 123. They were also concerned with the attempts/conspiracy/solicitation to commit offenses not being suitable for sentencing under SB 123. The Sentencing Commission is still receiving frequent questions from judges, court service officers and attorneys concerning SB 123 sentencing.

Two Sentencing Commission staff are being trained to work on the Commission web site. They will replace a former staff person that did the entire web site posting. Chair Johnson asked that some of what the trial courts have done concerning SB 123 issues be posted on the web site. They would not be presidential, but would be a way to illustrate what at least one court has done in the face of some of these arguments. This could cut down on the research that judges have to do when confronted with the same issues. Computer "space" allocated for the Commission's web site (by INK) may be a barrier to such postings.

Prison Population – Alternatives to Prison Construction Subcommittee

Ms. Biggs discussed the trend in prison population projections over the last two years. There have been some changes in the 2004 Legislation, which are expected to have an

increase bed impact. Last year's projections put the prison population at capacity within two years; this year's projections will more than likely put the prison population over capacity within the next two years. According to statutes, this means the Sentencing Commission needs to put together a plan to reduce admissions or length of stay for offenders, as an alternative to construction of new prisons.

A subcommittee was formed to devise a plan to deal with the prison population being over capacity within the next two years. Paul Morrison will chair the plan committee, with Roger Werholtz, Marilyn Scafe, Chris Mechler and Eric Rosen as committee members.

Senate Bill 123 – Subcommittee to Refine Language

The Honorable Ernest Johnson will chair a subcommittee to work on language revisions to fine-tune SB 123. Committee members also include Chris Mechler, Annie Grevas, Representatives Janice Pauls and Jeff Goering, Senators Greta Goodwin and John Vratil and Kathleen Lynch.

Senate Bill 123 – Community Corrections Feedback Plans for FY 2005

Ms. Biggs discussed a draft of the Required Feedback on SB 123 Plan that has been put together so far. It has two major components.

Part 1 - Feedback Documentation and Narrative Description

1. In narrative form to get folks to describe the kinds of obstacles or challenges, and then propose potential solutions.
2. Team meeting assurances and whether they are occurring.
3. Process with the Courts. This information will show what's going on between Community Corrections and the Courts, and make sure those avenues of communications are open and that information is flowing between the two appropriately.
4. Treatment Availability. It will show what treatment is available in the local jurisdiction, and what their needs still are. That will feed back over to DOC program staff, to help them work through what kinds of expansion needs are out there.
5. Data Entry and Tracking. This will become more and more critical as we get closer to the 18-month mark for the first evaluation required by Legislation.
6. Thinking for a Change. This will be a formalized statement showing this is happening.

Part II – Ad Hoc Committee Formation

Three ad hoc committees of community corrections directors are being formulated through this process. They will deal with:

1. Offender Reimbursements
2. Language Changes Needed
3. Courtesy Supervision Process and Invoice Authentication Process

KSC Staff

Ms. Biggs introduced Marty Schmiedeler, who joined the Kansas Sentencing Commission staff in March. He is an Accountant II, and works with the SB 123 payment process. The JJA Research position remains open and unfilled. Several applicants have been interviewed. That position should be filled soon.

Next Meeting

Chair Johnson asked that each of the subcommittees formed today meet some time in June, so progress reports may be discussed at the next Commission meeting. There will be no Commission meeting during the month of June. The next Kansas Sentencing Commission meeting was scheduled for Thursday, July 15th, 2004, at 1:30 p.m.

The Chairman adjourned the meeting.